

REMARKS

In response to the non-final Office Action dated March 4, 2009, Applicants submit that all pending claims are allowable for at least the reasons stated below.

Procedurally, Applicants note the present non-final Office Action is in response to the filing of Notice of Appeal and subsequent Appeal Brief. Applicants assert confusion regarding the present posture of this patent application because Applicants representatives submitted the exact same positions set forth in the Appeal Brief to Examiner Leroux during an in-person interview in Spring 2008. The Examiner rejected Applicants positions during the in-person interview but appears to accept the position by re-opening of the present prosecution and asserting a new non-final rejection. Applicants assert confusion because it appears the present prosecution has not significantly advanced in the previous year, especially in view of the Examiner's statements of conducting further prior art searching in response to the Spring 2008 in-person interview and the now-asserted prior art reference being publicly available in Spring 2008.

Regardless, Applicants note the present applicable financial credit regarding filing a subsequent Notice of Appeal. In lieu of undertaking (again) the time-consuming Appeal process, Applicants are filing the present response in hopes of advancing the present claims to allowance, especially in view of the time and expense relating to the previous Appeal and the fact that the pending claims are allowable in view of the prior art of record.

No claim amendments have been made.

Claims 1-3, 6-9, 13-14 and 17-20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,317,740 (Mukherjea). Applicants respectfully disagree, traverse and submit the rejection is improper.

To avoid confusion regarding the **exact** claimed language, Applicants re-iterate claim 1 below:

1. A method for providing at least one search result responsive to a search query comprising at least one search query term, the method comprising:
 - parsing a set of pages for a plurality of text and non-text indexable elements;
 - assigning a location identifier to one or more of the plurality of text and non-text indexable elements, the location identifier corresponding to a location of a given text and non-text indexable element in a given page from the set of pages;
 - storing the plurality of text and non-text indexable elements and the corresponding location identifier for the one or more of the plurality of text and non-text indexable elements in a computer readable medium as a plurality of records;
 - receiving the search query to request a stored record, the search query received from a user across a networked connection;
 - searching said plurality of records to determine text and non-text indexable elements that correspond to the search query;
 - transmitting at least one text element representation of said query result to the user across the networked connection; and
 - transmitting at least one non-text element representation of said query result to said user across the networked connection.

Applicants further point out and expressly note that the method of claim 1 recites “a location identifier” which is defined as “a location of a given text and non-text indexable element in a given page from the set of pages.” Additionally the claimed method includes the storage of the “corresponding location identifier” for each of the text and non-text indexable elements.

By way of review, Applicants re-iterate the point noted during the in-person interview, that there is a benefit to knowing the location of an image and text on a page. For example, an image at the top of a page may be given more weight than an image

located at the bottom of a page. There is a benefit to knowing not only the existing of a non-text element, but also its positioned location within the context of a web page, e.g. top, bottom, middle.

Stated as simply and concisely as possible: Mukherjea does not teach or suggest, *inter alia*, the claimed “location identifier” that corresponds to “a location of a given text and non-text indexable element in a given page” and the storage of the claimed “location identifier.”

As understood, Mukherjea relates to analyzing a media object (image) and assigning a keyword to that image. Mukherjea describes seven (7) different techniques for determining keywords and then assigning those keywords to the image: (1) name of image file; (2) URL of image; (3) text of hyperlink; (4) ALT text of an HTML tag; (5) title of HTML page; (6) the text of the embedding page; and (7) text appearing in HTML headings. Mukherjea further describes four (4) techniques for further analyzing number 6, the text of the embedding page: (1) visual distance; (2) syntactic distance; (3) regular patterns in a table; and (4) searching for groups of images.

The varied techniques of Mukherjea fail to teach or suggest location information as claimed. At best, the sixth technique for determining keywords, sub-techniques (1) and (2) denote a “distance,” (e.g. visual distance and syntactic distance) but these distances are the distance of words from the image. For example, Mukherjea examines how closely a particular word is to a particular image, e.g. if the words is close to the image, it is given more weight. This does not teach or suggest the claimed location information, which is the location of the text and non-text elements on the page.

Applicants also assert confusion regarding the cited support for the present rejection. The final paragraph of Page 3 in the present Office Action cites to Mukherjea, col. 5, lines 25-30 and col. 7 lines 10-15 as supporting the disclosure of a “assigning a location identifier.” As understood by the noted parenthetical in the paragraph in the Office Action, the Examiner misinterprets the claimed “location identifier” as the Examiner states “URL of an image is called the name of the image.” This is an unreasonable interpretation of the recited term “location identifier” because a URL is an address used under standard Internet protocols to retrieve associated data and claim 1 expressly states that the location identifier corresponds “to a location of a given text and non-text indexable element in a given page.” (emphasis added).

The Examiner therein further cites to col. 7, lines 60-65 of Mukherjea and notes a “spider or crawler.” Applicants again assert confusion because the Examiner-cited passage merely indicates that the “keyword assignment invention” of Mukherjea can be used on the Internet. There is no support with Mukherjea for the location identifier being “a location of a given text and non-text indexable element in a given page.” At best, the Examiner’s interpretation of the URL of a location identifier of Mukherjea would indicate the location of the image itself on the Internet, which is entirely inconsistent with the claimed invention.

The differences between the claimed invention and Mukherjea are even further evidenced by the recited step of “storing the plurality of text and non-text indexable elements and the corresponding location identifier for the one or more of the plurality of text and non-text elements.” The Examiner-cited passage of Mukherjea (col. 8, lines 1-5) merely provides for the storage of results of the keyword assignments in the storage unit

508. As noted above, the “keyword assignment,” the 7 possible techniques, none of those techniques take into account the location of the image and text in the page. At best, one of the keyword assignment techniques of Mukherjea determines a location proximity of text to an image, but is absolutely silent regarding the location of the text and/or image in the page.

As such, Applicants submit the present rejection is improper. Claim 1 recites patentable subject matter that is not taught nor suggested by Mukherjea. Mukherjea describes a completely different system operating in a completely different manner and generating a completely different result. Independent claims 7, 12 and 18 additionally recite limitations similar to claim 1 and are also allowable for at least the same reasons noted above.

The remaining claims, all being dependent claims, recite further patentable subject matter and are allowable for at least the same reasons noted.

Applicants further expressly note that the above-offered positions are submitted for advancing the present claims to issuance. Applicants herein expressly reserve the right to advance additional positions regarding the improperness of the present rejection and the allowability of the pending claims in subsequent filings. Applicants omission of any position in the present response does not constitute admission or acquiescence and as such Applicants can advance additional positions in further proceedings, for example any subsequent Appeal Brief.

For at least all of the above reasons, Applicants respectfully request that the Examiner withdraw all rejections, and allowance of all the pending claims is respectfully solicited. To expedite prosecution of this application to allowance, the Examiner is invited to call the Applicants' undersigned representative to discuss any issues relating to this application.

Respectfully submitted,

Dated: May 28, 2009



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